

Notice of Allowability

Application No.

10/699,992

Examiner

Victor K. Hwang

Applicant(s)

WEBBER ET AL.

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 3/14/07 and remarks filed 1/17/07.
2. ☒ The allowed claim(s) is/are 1-3, 5-14, 16-19 and 21-46.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date Feb. 12, 2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20070718.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER



EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Katherine Proctor on July 16, 2007.

2. The application has been amended as follows:

Amendment to the Claims:

1. (CURRENTLY AMENDED) A shoulder press exercise machine, comprising:
 - a main frame having a user support pivot mount, a forward end and a rear end;
 - a user support pivotally mounted on the user support pivot mount for supporting a user in a seated position and movable between a start position and an end position which is rearwardly reclined relative to the start position, the user support including a seat portion and a backrest portion;
 - at least one exercise arm movably mounted on the frame at a mounting rearward of the user support, the exercise arm having user engagement means for gripping by a user in performing a shoulder press exercise, the exercise arm being movable in an exercise movement in which the user engagement means is located higher at the end of the exercise movement than at the start of the exercise movement;

a connecting linkage comprising means for connecting movement of the exercise arm to movement of the user support, whereby exercise movement of the exercise arm simultaneously rotates the user support in the same general direction as the exercise arm is moved; and

a load separate from the user for resisting movement of at least one of the user support, exercise arm, and connecting linkage;

whereby the combined motion of the user, user support and user engagement means substantially replicates the natural movement of the upper part of a human body when performing a free weight shoulder press exercise.

2. (CURRENTLY AMENDED) A shoulder press exercise machine, comprising:

a main frame having a user support pivot mount, a forward end and a rear end;

a user support pivotally mounted on the user support pivot mount for supporting a user in a seated position and movable between a start position and an end position which is rearwardly reclined relative to the start position, the user support having a seat pad and a back pad, the seat pad and back pad traveling in a fixed relationship relative to one another throughout an exercise movement;

at least one exercise arm movably mounted on the frame at a mounting rearward of the user support, the exercise arm having user engagement means for gripping by a user in performing a shoulder press exercise, and being located higher at the end of a shoulder press exercise than at the beginning of the exercise;

a connecting linkage comprising means for connecting movement of the exercise arm to movement of the user support, whereby movement of the exercise arm simultaneously rotates the user support in the same general direction as the exercise arm is moved; and

a load for resisting movement of at least one of the user support, exercise arm, and connecting linkage;

whereby the combined motion of the user, user support and user engagement means substantially replicates the natural movement of the upper part of a human body when performing a free weight shoulder press exercise.

3. (CURRENTLY AMENDED) The machine as claimed in claim 2, wherein ~~the user support is movable between exercise start and end positions, and~~ the start position of the user support is a rearwardly reclined position.

4. (CANCELLED)

5. (PREVIOUSLY AMENDED) The machine as claimed in claim 3, wherein the user support in the end position is positioned upwardly and forward from the start position with the back pad more reclined than in the start position.

6. (ORIGINAL) The machine as claimed in claim 2, wherein the user support further includes a foot plate for supporting the user's feet on the user support throughout the exercise movement.

7. (ORIGINAL) The machine as claimed in claim 2, wherein the seat pad is adjustable in height.

8. (ORIGINAL) The machine as claimed in claim 1, including a foot rest mounted on the main frame in front of the user support for supporting the user's feet during an exercise movement.

9. (ORIGINAL) The machine as claimed in claim 1, wherein the exercise arm is moveably mounted on the frame for rotation about an exercise arm pivot

10. (ORIGINAL) The machine as claimed in claim 9, wherein the exercise arm pivot is positioned rearward of the user support.

11. (ORIGINAL) The machine as claimed in claim 9, wherein the user support rotates in the same direction as the exercise arm.

12. (ORIGINAL) The machine as claimed in claim 1, wherein the exercise arm is moveably mounted on the frame for movement in a linear path.

13. (PREVIOUSLY AMENDED) The machine as claimed in claim 12, wherein the main frame has an inclined strut located behind said user support, and the exercise arm has a central portion movably mounted for movement along said strut during an exercise, and has arm portions projecting forward from said central portion on opposite sides of said user support, said user engaging means comprising handles at the ends of said arm portions.

14. (PREVIOUSLY AMENDED) The machine as claimed in claim 1, wherein the user support has a user engaging region over which at least part of a user's body is located when the user is seated on the support, the user support pivot mount is positioned at a predetermined location under the user engaging region of the user support, the pivot mount defining a vertical, gravitational center line, whereby movement of the user engagement device in an exercise movement simultaneously moves the user support between a start position and an end position, the user support pivot mount being positioned such that portions of the user engaging region of the user support are distributed on each side of the gravitational centerline of the pivot mount in both the start and end position and only a portion of the user engaging region of the user support passes through the gravitational centerline during the exercise movement.

15. (CANCELLED)

16. (CURRENTLY AMENDED) The machine as claimed in claim 14, wherein a greater portion of the user engaging region is located in front of the gravitational centerline in the start position than in the end position, approximately 50% of the user support being located on each side of the centerline in the end position.

17. (CURRENTLY AMENDED) The machine as claimed in claim 1, wherein the user support ~~frame~~ has a primary user support and a secondary user support held in fixed relative locations throughout an exercise movement, the primary support comprising a seat pad.

18. (ORIGINAL) The machine as claimed in claim 17, wherein the secondary support comprises a back pad.

19. (PREVIOUSLY AMENDED) The machine as claimed in claim 1, wherein the user support has a user engaging region over which at least part of a user's body is located when seated on the user support, and the pivot mount defines a gravitational centerline extending through the user engaging region throughout an exercise movement.

20. (CANCELLED)

21. (ORIGINAL) The machine as claimed in claim 1, wherein the main frame has a base and the user support pivot mount is mounted on the base.

22. (ORIGINAL) The machine as claimed in claim 1, wherein the exercise arm comprises a single rigid exercise arm having opposite arm portions extending on opposite sides of the user support, the arm portions having outer ends, and said user engaging means comprising angled handles at the outer ends of said arm portions.

23. (ORIGINAL) The machine as claimed in claim 1, wherein a pair of independently movable exercise arms are movably mounted on the frame, each exercise arm having a user engagement means for engagement by a respective one of the user's hands.

24. (PREVIOUSLY AMENDED) The machine as claimed in claim 1, wherein the connecting linkage is a rigid link.

25. (CURRENTLY AMENDED) The machine as claimed in claim 24, wherein the connecting linkage link has a first end pivoted to said exercise arm and a second end pivoted to said user support frame.

26. (CURRENTLY AMENDED) The machine as claimed in claim 25, wherein ~~the user support has a seat portion and a backrest portion, and~~ the second end of the connecting linkage link is pivoted to said backrest portion.

27. (CURRENTLY AMENDED) The machine as claimed in claim 25, wherein ~~the user support has a seat portion and a backrest portion, and~~ the second end of the connecting linkage link is pivoted to said seat portion.

28. (CURRENTLY AMENDED) The machine as claimed in claim 24, wherein the connecting linkage link is adjustable in length.

29. (PREVIOUSLY AMENDED) The machine as claimed in claim 1, including a movable member movably mounted on said user support, the connecting linkage having a first end pivoted to said movable member and a second end pivoted to said exercise arm.

30. (CURRENTLY AMENDED) The machine as claimed in claim 1, wherein the connecting linkage comprises a first gear toothed cam mounted on said at least one exercise arm ~~user engagement device~~, a second gear toothed cam mounted on said user support ~~frame~~, and a sprocket rotatably mounted on said main frame and meshing with said first and second gear toothed cams so as to link movement of said at least one exercise arm ~~user engagement device~~ with movement of said user support ~~frame~~.

31. (PREVIOUSLY AMENDED) The machine as claimed in claim 1, wherein the connecting linkage comprises a moving wedge member movably engaged with said main frame and user support, and said exercise arm is linked to said moving wedge member.

32. (PREVIOUSLY AMENDED) The machine as claimed in claim 1, wherein the connecting linkage comprises a cable and pulley linkage.

33. (PREVIOUSLY AMENDED) The machine as claimed in claim 1, wherein the connecting linkage comprises a movable member movably mounted on said main frame, a first linkage connecting said movable member to said user support, and a second linkage connecting said movable member to said exercise arm.

34. (PREVIOUSLY AMENDED) The machine as claimed in claim 1, wherein the connecting linkage comprises a multiple bar linkage between said user support, exercise arm, and main frame.

35. (PREVIOUSLY AMENDED) A shoulder press exercise machine, comprising:

- a main frame having a user support pivot mount, a forward end and a rear end;
- a user support pivotally mounted on the user support pivot mount for supporting a user in a seated position and movable between a start position and an end position;
- at least one exercise arm movably mounted on the frame, the exercise arm having user engagement means for gripping by a user in performing a shoulder press exercise, and being located higher at the end of a shoulder press exercise than at the beginning of the exercise;

a connecting linkage comprising means for connecting movement of the exercise arm to movement of the user support, whereby movement of the exercise arm simultaneously rotates the user support; and

a load comprising a selectorized weight stack for resisting movement of at least one of the user support, exercise arm, and connecting linkage;

whereby the combined motion of the user, user support and user engagement means between the start and end position substantially replicates the natural movement of the upper part of a human body when performing a free weight shoulder press exercise.

36. (ORIGINAL) The machine as claimed in claim 1, wherein the load comprises weight plates.

37. (ORIGINAL) The machine as claimed in claim 1, wherein the load is linked to said user support frame.

38. (ORIGINAL) The machine as claimed in claim 1, wherein the load is linked to said exercise arm.

39. (CURRENTLY AMENDED) The machine as claimed in claim 1, wherein the load is linked to said connecting linkage link.

40. (CURRENTLY AMENDED) A shoulder press exercise machine, comprising:

a main frame having a user support pivot mount, a forward end and a rear end, the main frame having a base and a rear upright at the rear end of the base;

a user support pivotally mounted on the user support pivot mount for supporting a user in a seated position and movable between a start position and an end position that is rearwardly reclined relative to the start position;

an exercise arm movably mounted on said rear upright and having arm portions projecting forward on opposite sides of said user support, the exercise arm having user engagement means for gripping by a user in performing a shoulder press exercise, the user engagement means comprising the only part of the machine actuated by a user in order to perform the exercise, the exercise arm having a start position corresponding to the start position of the user support and an end position higher than the start position, the end position of the exercise arm corresponding to the end position of the user support;

a connecting linkage comprising means for connecting movement of the exercise arm to movement of the user support, whereby movement of the exercise arm from the start to the end position simultaneously rotates the user support from the start to the end position in the same general direction as the exercise arm is moved; and

a load for resisting movement of at least one of the user support, exercise arm, and connecting linkage;

whereby the combined motion of the user, user support frame and user engagement means between the start and end position substantially replicates the natural

movement of the upper part of a human body when performing a free weight shoulder press exercise.

41. (ORIGINAL) The machine as claimed in claim 1, wherein said user support is L-shaped, having a seat supporting base and an upright back support member and a junction between the base and upright back support member.

42. (CURRENTLY AMENDED) The machine as claimed in claim 41, wherein the user support pivot mount is located adjacent the junction of said seat supporting base and upright back support member.

43. (CURRENTLY AMENDED) The machine as claimed in claim 41, wherein said user support pivot mount is pivotally secured to said upright back support member of said user support.

44. (ORIGINAL) The machine as claimed in claim 43, wherein said upright back support member has an upper end, the user support pivot mount being pivotally connected to the upper end of said upright back support member

45. (CURRENTLY AMENDED) A shoulder press exercise machine for performing exercises equivalent to a free weight shoulder press exercise, comprising:

a main frame having a forward end and a rear end;

a user support pivot mount on the main frame;

a user support frame pivotally mounted on the user support pivot mount for supporting a user in a seated position and movable between a start position and an end position which is rearwardly reclined relative to the start position, the user support frame comprising one moving part of the machine, and having a seat portion and a back rest portion which travel in a fixed relationship throughout an exercise movement;

at least one exercise arm movably mounted on one of the frames at a mounting rearward of the user support pivot mount for engagement by the user in performing exercises, the exercise arm having a user engaging handle, and comprising a second moving part of the machine;

a connecting link movably engaged with at least two of the main frame, user support frame and exercise arm for linking movement of the exercise arm to movement of the user support frame in the same general direction as the exercise arm is moved, the connecting link comprising a third moving part of the machine; and

a load for resisting movement of at least one of the moving parts of the machine;
and

whereby the combined motion of the user, user support frame and user engagement means between an exercise start and end position substantially replicates the natural movement of the upper part of a human body when performing a free weight shoulder press exercise.

46. (PREVIOUSLY AMENDED) The machine as claimed in claim 45, wherein the exercise arm and user support frame are positioned relative to one another in the end position such that the handle is located above the back rest portion of the user support frame, whereby the user's arms are extended above their head in the exercise end position.

3. The following is an examiner's statement of reasons for allowance:

With regard to the prior art of *Huang*, claims 1, 2, 40 and 45 are partly or wholly distinguished by establishing the forward end and rear end of the main frame in terms of the exercise arm mounting on the frame relative to the user support, and providing a user support that reclines. Claims 1, 2 and 45 are further distinguished from *Huang* in that a backrest portion is provided that is part of the user support that reclines, wherein a backrest provided on *Huang* would not satisfy the reclining limitations.

With regard to the prior art of *Lee*, claims 1, 2, 40 and 45 are distinguished by recitation that the user support rotates in the same general direction as the exercise arm is moved. As shown in Fig. 9, the exercise arm of *Lee* is pulled forward and rotates in a counterclockwise while the user support rotates upward and rotates in a clockwise.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Terminal Disclaimer


4. The terminal disclaimer filed on January 17, 2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent Application No. 10/633,805 has been reviewed and is accepted. The terminal disclaimer has been recorded.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor K. Hwang whose telephone number is (571) 272-4976. The examiner can normally be reached Monday through Friday from 7:30 AM to 4:00 PM Eastern time.

The facsimile number for submitting papers directly to the examiner for informal correspondence is (571) 273-4976. The facsimile number for submitting all formal correspondence is (571) 273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571) 272-4965.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Victor K. Hwang
July 18, 2007

KEVIN C. SIRMONS
SUPERVISORY PATENT EXAMINER

